

# SENATE BILL REPORT

## SB 5678

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As Reported by Senate Committee On:  
Environment, Energy & Technology, January 27, 2022

**Title:** An act relating to energy transformation, nonemitting electric generation, and renewable resource project analysis and declaratory orders.

**Brief Description:** Concerning energy transformation, nonemitting electric generation, and renewable resource project analysis and declaratory orders.

**Sponsors:** Senators Short, Carlyle, Frockt and Mullet.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/13/22, 1/27/22 [DPS-WM].

**Brief Summary of First Substitute Bill**

- Allows an investor-owned utility, or a person proposing an energy transformation project, non-emitting electric generation project, or renewable resource project to petition the Utilities and Transportation Commission for a declaratory order to determine whether the proposed project meets the requirements of the Clean Energy Transformation Act.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Majority Report:** That Substitute Senate Bill No. 5678 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Short, Ranking Member; Brown, Das, Fortunato, Liias, Lovick, Nguyen, Schoesler, Sheldon, Stanford and Wellman.

**Staff:** Kimberly Cushing (786-7421)

**Background:** Clean Energy Transformation Act. In 2019, the Legislature passed the Clean Energy Transformation Act (CETA), which requires Washington's electric utilities to

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meet 100 percent of their retail electric load using non-emitting and renewable resources by January 1, 2045. CETA requires electric utilities to eliminate coal-fired resources from their allocation of electricity by December 31, 2025, and make all retail sales of electricity greenhouse gas (GHG) neutral by January 1, 2030.

An electric utility may satisfy up to 20 percent of the GHG neutral standard with an alternative compliance option, such as investing in energy transformation projects. An energy transformation project must:

- provide energy-related goods or services, other than the generation of electricity;
- result in a reduction of fossil fuel consumption and related GHG emissions; and
- provide benefits to electric utility customers.

An energy transformation project may include home weatherization or other energy efficiency measures, support for electrification of the transportation sector, investment in distributed energy resources and grid modernization, and investments in renewable natural gas.

Under CETA, each utility must submit a clean energy implementation plan (CEIP) every four years, beginning January 1, 2022. The CEIP will propose interim targets and document how a utility intends to comply with CETA's clean energy and equity requirements and make progress toward the GHG neutral and 100 percent clean electricity standards. The Utilities and Transportation Commission (UTC), after a hearing, must approve, reject, or approve with conditions an investor-owned utility's (IOU's) CEIP and interim targets.

An IOU must adopt a ten-year clean energy action plan for implementing CETA at the lowest reasonable cost and at an acceptable resource adequacy standard that identifies the specific actions to be taken by the IOU consistent with its long-range integrated resource plan.

Administrative Procedure Act. The Administrative Procedure Act (APA) establishes the general procedures for agency rulemaking and adjudicatory proceedings. Under the APA, any person may petition an agency for a declaratory order on how a rule, order, or statute applies in specific circumstances.

**Summary of Bill (First Substitute):** An IOU may petition the UTC for a declaratory order to determine whether the proposed project meets the GHG neutral and 100 percent clean electricity standards under CETA.

The petition for a declaratory order must be in writing and include an accurate description of the project.

If the UTC determines that a project in the declaratory order complies with CETA, an IOU may identify the project in its clean energy action plan and CEIP. However, if an IOU

seeks approval of a resource or project for a CEIP or proceeding to set rates and the resource or project substantially deviates from the one described in the declaratory order, the UTC may reevaluate the resource or project for determining compliance under CETA.

The UTC may require an applicant to pay a fee to cover the cost of reviewing the project and preparing a declaratory order.

A declaratory order does not determine the prudence of an energy transformation project, nonemitting electric generation project, or renewable resource project.

The bill does not preempt the authority of the UTC from making a determination independent of the declaratory order on whether a project meets the planning and portfolio requirements of an IOU's CEIP. The bill does not require an IOU to see a declaratory order to determine whether or not a resource or project is compliant with CETA.

**EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):**

Limits the petition for a declaratory order to only the IOUs. Clarifies that if an IOU seeks approval of a resource or project under a CEIP that has changed since it was approved under a declaratory order, it is only relevant if the change impacts the resource's or project's compliance with CETA.

Specifies that a declaratory order does not determine the prudence of an energy transformation project, nonemitting electric generation project, or renewable resource project.

Specifies that nothing in the bill requires an IOU to seek a declaratory order to determine whether or not a resource or project is compliant with CETA.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill is complementary to CEIPs. It will provide guidance for utilities to think about how to build energy projects under CETA and for ratepayers to ensure that more work is done up front. It is intended to give utilities reasonable certainty before starting a project. Utilities want to determine whether or not something will qualify. It is not a prudence determination, but allows a

utility to present a specific design before making a sizable investment.

OTHER: We are not convinced the bill is necessary. Any party can petition for a declaratory order under existing law. The issues related to design should be under the CEIP process. This will put an excessive burden on the UTC and intervenors to the process.

**Persons Testifying:** PRO: Senator Shelly Short, Prime Sponsor; John Rothlin, Avista Corp.

OTHER: Amy Wheelless, NW Energy Coalition.

**Persons Signed In To Testify But Not Testifying:** No one.